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February 28, 1997

BY HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

RECEIVED

FEB 28 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: *In the Matter of Closed Captioning and Video Description of Video
Programming, FCC 97-4 (Notice of Proposed Rulemaking in MM Docket
No. 95-176) -- Comments of Pulitzer Broadcasting Company*

Dear Mr. Secretary:

On behalf of Pulitzer Broadcasting Company ("Pulitzer"), and pursuant to the *Notice of Proposed Rulemaking*, I enclose for filing an original and eleven duplicate copies of Pulitzer's Comments in the proceeding captioned above.

Please stamp and return to this office with the courier the enclosed receipt copy of this filing designated for that purpose. Should any question arise concerning this matter, kindly advise the undersigned.

Respectfully submitted,


Eric T. Werner

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY**

In the Matter of)
)
Closed Captioning and Video Description)
of Video Programming)
)
Implementation of Section 305 of the)
Telecommunications Act of 1996)
)
Video Programming Accessibility)

MM Docket No. 95-176

To: The Commission

**COMMENTS OF
PULITZER BROADCASTING COMPANY**

PULITZER BROADCASTING COMPANY

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Date: February 28, 1997

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)	
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Closed Captioning and Video Description)	
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Implementation of Section 305 of the)	
Telecommunications Act of 1996)	
)	
Video Programming Accessibility)	
To: The Commission		

COMMENTS OF PULITZER BROADCASTING COMPANY

PULITZER BROADCASTING COMPANY ("Pulitzer"), by its attorneys and pursuant to Sections 1.430 and 1.415 of the rules of the Federal Communications Commission ("FCC" or "Commission"),^{1/} hereby submits its comments in response to the *Notice of Proposed Rulemaking* ("Notice") in the proceeding captioned above.^{2/} In the *Notice*, the Commission proposes rules to implement new Section 713 of the Communications Act of 1934, as amended (the "Act"). 47 U.S.C. § 613.^{3/}

I. INTRODUCTION

Section 713 directs the Commission to promulgate regulations by August 8, 1997, to ensure to the maximum extent practicable that video programming is accessible to deaf and hearing-impaired members of the public through the provision of closed captions. *Id.* §

^{1/} 47 C.F.R. §§ 1.430, 1.415 (1995).

^{2/} *Closed Captioning and Video Description of Video Programming*, FCC 97-4, released January 17, 1997 (*Notice of Proposed Rulemaking* in MM Docket No. 95-176) ("*Notice*").

^{3/} Section 713 was added to the Act by Section 305 of the Telecommunications Act of 1996, Pub. L. 104-104, 110 Stat. 56 (1996).

613(b). Pulitzer supports this laudatory goal. Indeed, Pulitzer's stations have already, for some time, provided a significant amount of captioned locally-produced programming -- particularly local news programming -- to viewers in their communities with hearing-disabilities. However, Pulitzer is keenly aware of the exponential cost and technical burdens which distinguish the various captioning methodologies now available: The electronic newsroom ("ENR") system, for example, can yield highly-reliable captions for the majority of live, local news content at only a modest cost. In addition, because the ENR system requires little equipment or specialized training, it can often be deployed very quickly. By contrast, "real time" or "live captioning" entails significantly higher expenditures, both in terms of the equipment which must be acquired and for the hiring and training of personnel to operate it.

In enacting Section 713, Congress indicated that it did not view the objective of maximizing the accessibility of programming through captioning as an end to be achieved at any cost. Rather, the language of the statute made plain Congress's intention that the FCC's rules should afford due consideration to the economic and other burdens that may attend the various captioning methodologies available to various video programming providers. *See id.* § 613(d), (e) (affording the FCC discretion to exempt certain types of programming and setting forth the considerations relevant to assessing what constitutes an "undue burden").

Pulitzer is particularly concerned about the impact which the Commission's rules may have on its news operations. Because market forces already motivating broadcasters and other video programming services to deliver more captioning to their viewers, Pulitzer urges the Commission to eschew imposing an expedited schedule for the captioning of local news programming. Moreover, the Commission should not prescribe the captioning method which

stations must use. Rather, it should afford local stations the discretion to select from among the available methods in order to provide them adequate opportunity to adjust their operations to the increased costs of uniform captioning over time. More specifically, the Commission should not mandate that stations immediately employ "real time" or "live captioning" for all local news and information programming.

II. PULITZER'S INTEREST IN THE PROCEEDING

Pulitzer operates nine network-affiliated television stations, two television satellite stations, and holds the permit for a third television satellite station in communities ranging from the twenty-second largest market in the country to the seventy-fifth. Pulitzer's stations include: WESH, Orlando, Florida (market rank: 22); WYFF, Greenville, South Carolina (market rank: 35); WDSU, New Orleans, Louisiana (market rank: 41); WGAL, Lancaster, Pennsylvania (market rank: 44); WXII, Greensboro, North Carolina (market rank: 46); KOAT, Albuquerque, New Mexico (market rank: 48); WLKY, Louisville, Kentucky (market rank: 50); KCCI, Des Moines, Iowa (market rank: 72); and KETV, Omaha, Nebraska (market rank: 75). In addition, Station KOAT operates satellite television stations KOCT, Carlsbad, New Mexico and KOVT, Silver City, New Mexico, and is the permittee of Station KOFT, Gallup, New Mexico.

Consistent with the tradition of journalistic excellence Joseph Pulitzer started 118 years ago, Pulitzer places a great deal of emphasis on its stations' news operations. Each of Pulitzer's stations produces a significant amount of live, local news programming each week. Moreover, in keeping with Mr. Pulitzer's charge to "always remain devoted to the public welfare . . .," Pulitzer has made significant investments to ensure that all of its stations utilize some form of captioning to make their news programming accessible to viewers with hearing

disabilities. Accordingly, any rules adopted by the FCC mandating a different methodology for captioning than that already in place or imposing an expedited timetable for changing to a costlier method would carry significant financial consequences for Pulitzer's stations and would seriously impact their operations.

III. THE COMMISSION SHOULD NOT IMPOSE AN EXPEDITED SCHEDULE FOR THE CAPTIONING OF LOCAL NEWS PROGRAMMING AND SHOULD AFFORD BROADCASTERS DISCRETION TO SELECT THE BEST CAPTIONING METHODOLOGY

In the *Notice*, the Commission observes that advocates on behalf of persons with hearing disabilities have urged the Commission to place a higher priority on captioning of "emergency broadcasts, news reports, local/regional programs, and education programming" than on the captioning of entertainment programming. *Notice* at 21 ¶ 37. While the Commission has proposed an eight-year timeframe for the phasing-in of captioning and has tentatively concluded that video programming providers should have "significant discretion" to determine how to meet the captioning percentage benchmarks during that time, see *id.* at 23 ¶¶ 41-42, the Commission has also solicited comment "on whether there are certain types of programming (*i.e.*, live local news or public affairs programming) for which [it] should specify an earlier implementation schedule." *Id.* at 23 ¶ 42 (emphasis added).

Pulitzer believes that such an expedited implementation schedule is entirely unnecessary, at least with respect to local news programming, and should not be adopted. First, the available evidence does not suggest that local news programming has lagged behind other categories of programming in the pace at which it is being captioned. On the contrary, by all indications, local news is actually being captioned at least as rapidly as other classes of programming.

As the *Notice* recognizes, a study prepared by the National Association of Broadcasters ("NAB") revealed that 81.5 percent of stations provide captions for their local newscasts. *Id.* at 13 ¶ 17. All of Pulitzer's stations, regardless of market size, caption their local news. Most of Pulitzer's stations utilize ENR technology to caption the scripted portions of their newscasts; however, WESH uses ENR captioning for its morning and 11:00 p.m. newscasts but utilizes a stenocaptioner to provide "real time" captioning of its noon, 5:00 p.m., 5:30 p.m., and 6:00 p.m. newscasts Monday through Friday and for its 6:00 p.m. newscasts on Saturday and Sunday. All of these efforts were undertaken without any congressional or FCC captioning mandate as a response to the needs and interest of local viewers in competitive markets. Accordingly, the Commission can have a high degree of confidence that market forces will be sufficient to ensure that the captioning of local news programming is not delayed until the end of the implementation schedule.

An expedited implementation schedule is also unnecessary for local news because, in many cases, the pace of captioning has already surpassed the Commission's proposed timetable. More specifically, the Commission has proposed a eight year period during which captioning would be phased-in at a rate of 25 percent every two years. Under the Commission's schedule 75 percent of all programming be captioned by the sixth year and 100 percent by the end of the eighth year. However, in many cases stations have already been able to caption significantly greater percentages of their local news programming even using ENR captioning alone.

The predominant majority of local news programming relies upon scripted material. Using the ENR method, Pulitzer station WXII, for example, is able to provide captions for up to 95 percent of its news programming content. Similarly, KOAT captions all of its local

news using the ENR method and is able to caption approximately 80 percent of its late-breaking news.

While certain non-scripted elements (*e.g.*, weather and certain late-breaking news coverage) are not captured by the ENR system and, thus, carry no captions, these elements constitute a relatively small percentage of the total news content. Moreover, the content contained in them can also be communicated in other ways or at other times. For example, most stations do not script weather reports; however, WXII provides a caption summary of the weather segment to supplement the graphical and visual elements of that report.^{4/} Similarly, a late-breaking news report which is broadcast initially without captions due to time constraints can often be communicated to hearing impaired viewers through captions only minutes later -- in a recap of the story -- after a script has been prepared. Thus, to the extent that a significant percentage of local news programming is already being captioned, the Commission should not impose an expedited schedule requiring more rapid captioning of the relatively small residual percentage of news programming that is presently uncaptioned.

Another consideration also weighs against imposition of an expedited schedule: namely, requiring local broadcasters to caption the small percentage of unscripted portions of their local newscasts on an expedited schedule would be tantamount to dictating the captioning method that local broadcaster must employ. This is so because captioning of these unscripted segments would require costly "real time" or "live captioning."

In the *Notice*, the Commission wisely recognized the virtues of affording programming providers "significant discretion regarding what will be captioned to meet the

^{4/} Station KETV has plans in place to begin scripting or summarizing its weather reports soon.

requirement and how to use the funding available for captioning." *Id.* at 23 ¶ 42.

Specifically, the Commission stated:

We believe this approach is preferable to one in which the Commission specifies precisely what types of programming needs to be captioned by when. Providers have access to information, such as advertising revenues or captioning sponsorships available for specific programming or programming day parts, that may influence the choice of what programming gets captioned first. Further, program providers are the most direct link to the consumer and are in a better position than the Commission to determine what should be captioned first.

Id. Pulitzer agrees with the Commission's assessment and, based upon its own experience, Pulitzer believes that a requirement that stations adopt on an expedited basis "real time" captioning to provide captions for the marginal percentage of presently uncaptioned local news content would impose an economic burden not commensurate with the negligible benefit to be derived. The experience of Pulitzer station WESH bears this out.

As noted above, WESH has some experience with "real time" captioning. At present, WESH uses this method to caption approximately 11 hours of programming per week, and in 1996, for example, the Station incurred a cost of \$108,000 to provide this service.^{5/} If WESH were required to expand its live captioning to include all of its newscasts, the Station estimates that it would cost an additional \$100,000 -- almost double the present cost. The cost for other stations to convert to full-time "real time" captioning for all their local news

^{5/} By comparison, Pulitzer's other stations that rely on ENR captioning incurred much more modest capital investments to acquire the newsroom computer systems that provide their captioning, and once that equipment was acquired, the stations have little or no cost to provide captions. *See also Notice* at 15 ¶ 21 ("The cost of installing ENR capability is generally estimated to be between \$2500 and \$5000.").

could be expected to be even higher because they would need to purchase and install the necessary equipment and locate, hire, and train the additional personnel needed.

Such expenditures may ultimately become necessary as stations make the transition to complete captioning of all of their locally-produced and originated live programming.

However, stations should be have the opportunity to absorb those costs over a sufficient period of time so that other station services and functions are not impaired. Moreover, the Commission has noted that the pool of real time captioning resources appears to be limited. *Notice* at 16 ¶ 24. Permitting stations a longer period of time to make the transition to "real time" captioning will afford more time to expand these resources and will likely reduce the ultimate cost for these services in the future. In any event, stations should not be placed in the position of incurring these substantial costs immediately simply to provide captions for the negligible portion of news programming now uncaptioned.


V. CONCLUSION

FOR THE FOREGOING REASONS, Pulitzer respectfully urges the Commission to adopt captioning rules which do not require broadcasters to implement captioning of their local news programming on an expedited implementation schedule. Rather, Pulitzer requests that the Commission afford broadcasters broad discretion to select from among the available

captioning methodologies to meet the eight-year implementation time table proposed by the Commission in the *Notice*.

Respectfully submitted,

PULITZER BROADCASTING COMPANY

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